**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION No.5973 of 1994**

Between:

J.Srinivas Rao, S/o.J.Narsing Rao and others.

**.. PETITIONERS**

AND

A.P. State Co-operative Marketing Federation Limited and others.

**.. RESPONDENTS**

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

**ORDER:**

Appointment of respondents 2 and 3, as Marketing Officers in the first respondent Corporation, is impugned in this writ petition on the ground that the petitioners are seniors to respondents 2 and 3.

Facts, to the extent necessary for this writ petition, are that the first petitioner joined as a Junior Office Assistant on 12-06-1972, the second petitioner on 15-06-1972 and the third petitioner on 15-04-1972 and they were subsequently promoted as Senior Office Assistant on 05-03-1974, 01-06-1974 and 01-06-1974 respectively. In the seniority list prepared on 03-09-1985, all the petitioners were shown at Serial

Nos.68, 41 and 38 respectively. The second and third respondents were shown at Serial Nos.72 and 71. The first petitioner had passed XII class, the second petitioner, PUC and the third petitioner, B.Com. The second respondent is said to be a graduate in agricultural science and the third respondent to possess the qualification of B.Sc., and LLB. The grievance of the petitioners is that, while the second and third respondents were promoted to the scale of 480-30-900 with effect from 22-04-1976 and 410-756 with effect from 01-04-1977, they were deprived of the said pay scales.

Sri P.Vinayaka Swamy, learned counsel for the petitioner, would refer to the Minutes of the Selection Committee Meeting held on 15-10-1975 in support of his contention that while the second respondent was shown at Serial No.19, the petitioners were not. A perusal of the minutes of the Selection Committee Meeting, dated 15-10-1975, reveals that applications were invited to the post of Marketing Officers, applications were screened, 40 candidates were called for interview, from among whom, 33 candidates had appeared for the interview. These 33 candidates, along with other candidates, already working in Markfed, who possessed necessary experience and qualification, were interviewed by the committee. The Selection Committee considered the experience, qualification and potential of the candidates for various vacancies existing in Markfed and finalized the list of selected candidates considering the candidates previous experience and the emoluments drawn by them already and thereafter recommended that the pay of the selected candidates may be fixed suitably as indicated in the grades of pay recommend against their names. It is thus clear that the Selection Committee not only considered the experience of the candidates in Markfed but also considered the qualification and potential of the candidates to discharge the functions in the various existing vacancies. Admittedly, the second and third respondents are better qualified than the petitioners herein. Sri P.Vinayaka Swamy, would refer to the Special Bye-Laws of Service Conditions of

Employees of Markfed. The Special Bye-Laws do not prescribe that promotion to higher posts should only be by way of seniority or seniority-cum-merit. In the absence of any other rule being brought to the notice of this court which requires appointment to a higher post, in markfed, to be made only on the basis of seniority or seniority-cum-merit, selection of the second and third respondents to higher posts and fixation of higher scales of pay cannot be faulted.

The writ petition as filed is misconceived and is accordingly dismissed. No order as to costs.

_____

10-02-2006

Prv